





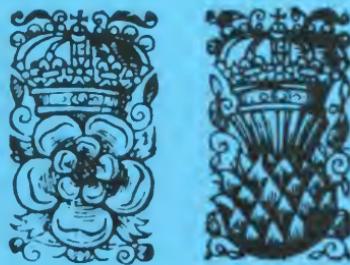




The Case of our Affaires,  
IN  
LAW,  
RELIGION,

And other Circumstances briefly Examined, and Presented to the  
*CONSCIENCE.*

---



---

Printed in the Yeare, 1643.

# Queen's University Libraries



PRESENTED BY

---

*Special Coll.*

Professor J. A. W. Gunn,  
2003

---

Kingston, Ontario, Canada

# THE CASE OF OUR AFFAIRES

IN LAW, RELIGION, AND  
OTHER CIRCUMSTANCES

by

JOHN SPELMAN

Published by *The Rota* at the University of Exeter  
1975

AC911-159720 563

© *The Rota*, 1975

ISBN 0 904617 03 3

*Printed in Great Britain by*  
The Printing Unit of the University of Exeter

### *Bibliographical Note*

*The case of our affaires* is one of the royalist replies to Henry Parker's *Observations upon some of his majesties late answers and expressses* London, 1642, reprinted by W. Haller in *Tracts on liberty* (New York, 1933), II, 165-213. The controversy had originated with the king's *Answer to the nineteen propositions* in June 1642. That manifesto emanated from the king's moderate civilian advisers; Clarendon tells us that it was composed by Falkland and Colepeper. The *Answer* characterised the parliamentary demands as subversive to the 'ancient, equal, happy, well-poised and never-enough commended Constitution of this Kingdom', in which monarchy, aristocracy and democracy were mixed so as to secure the benefits and avoid the ills of the pure forms. Furthermore the *Answer* while emphasising the king's executive and military powers and refusing 'to make our Self, of a King of England, a Duke of Venice, and this of a Kingdom, a Republick', admitted that the laws were 'jointly made by a King, by a House of Peers, and by a House of Commons chosen by the People, all having free Votes and particular Priviledges'. Parker's *Observations* went beyond this admission of an independent constitutional position for the houses of parliament in asserting that the king's fiduciary powers in government were derived from the people and were to be used for the benefit of the people. Moreover, the power of the people was embodied in parliament.

Sir John Spelman countered Parker's doctrine of popular sovereignty exercised by the houses of parliament by reasserting the sovereignty of the king—'there neither is, nor can be any co-ordination, nor co-equalitie of any Estate, Order, or Degree, of the Subject with the Soveraigne' (below, pp. 2-3). Yet Spelman admitted that the king was not absolute but constitutionally restrained to act in certain regular ways; for example, he can only make law with the consent of the nobles and the commons. Spelman's vindication of this view of the English constitution relies on legal and historical evidence. He apparently inherited a love of history from his father, Sir Henry Spelman, the antiquary. For an account of this constitutional controversy, see C. C. Weston, *English constitutional theory and the house of lords, 1556-1832* (New York and London, 1965), pp. 23-43; on royalist thought 1642-44, there is a brief discussion by J. W. Allen, *English Political Thought, 1603-1660* (London, 1938), I, 482-519.

Summoned by the king to Oxford, Spelman not only engaged in political pamphleteering but also attended the royal council. He died of camp fever in July 1643 before he could be appointed one of the secretaries of state and before publication of *The case of our affaires*.

Three versions of the pamphlet exist. See F. Madan, *Oxford Books* (Oxford, 1912), II, 310-311. The earliest, (Madan 1516) was printed in Oxford, probably by Henry Hall. It includes 'A discoverie of Londons obstinacie and miserie' on pp. 32-38; and its p. 11 begins, 'therefore the most'. This is the version here reprinted. Presumably it was published before the variant collected by Thomason on 29 January 1643/44 (Madan 1517) which was printed in London although it purports to come from Oxford. Less generously produced (26 pp.), it prudently omitted the ~~distrise~~ against London; its p. 11 begins 'which we could'. The third variant (Madan 1518) has a title page and printer's ornaments identical to the second, but it has been reset with a number of printing changes; its final word is 'condition' instead of 'destruction'.

*The case of our affaires* is reproduced by permission of the Curators from a copy in the Bodleian Library, shelf mark C. 14. 4. Linc; Wing 54935.

# The Case of our Affaires, IN LAW, RELIGION,

And other Circumstances briefly Examined, and Presented to the  
*CONSCIENCE.*



*Aucto'. D<sup>o</sup> fo<sup>r</sup>  
Spelman Hvn  
filio.*

---

Printed in the Ycare, 1643.





The Case of our Affaires in Law, Religion, and other Circumstances briefly examined, &c.



Hough the Bonds of all Dutie are originally and principally founded in God, and tied by Religion; yet seeing all civill Duties relate to the particularitie of the humane Ordinance, and according to the nature of it, is with more or lesse importance to be exacted. What Subject soever would finde the true rule and bond of his obedience, must in the first place look what the State is wherein he lives, and in whom the Soveraignitie is to which his obedience and faith is inevitably bound.

Our State of *England* (even by the declaration of our Lawes) <sup>25. H. 8.</sup> is a Kingdom, an Empire, a well regulated Monarchie; the Head <sup>cap. 22.</sup> <sup>24 H. 8.</sup> thereof a Supreme Head, a Soveraigne, a King whose Crown is <sup>cap. 12.</sup> <sup>26. H. 8.</sup> an Imperiall Crown, the Kingdom *Hu* Kingdom, *Hu* Realme, <sup>cap. 2.</sup> <sup>1. Eliz. 1.</sup> *Hu* Dominion, the People *Hu* People, the Subje<sup>c</sup>t *Hu* Subje<sup>c</sup>t, <sup>1. Eliz. 1.</sup> not onely as they are single men, but even when being in Par- <sup>1. Eliz. 1.</sup> liament assembled; they make the Bodie Representative of the <sup>25. H. 8.</sup> <sup>Codij casij</sup> whole Kingdom considered apart without the King, so that the <sup>fol. 96.</sup> <sup>nde the</sup> very Parliament it selte is also by our Lawes called *Hu* Parlia- <sup>Parl. wic</sup> ment: the King alone by Law hath power to call together in Parliament that Representative Bodie, and at His pleasure to dissolve it; He personally hath Homage and Oath of fidelitie of all the Peeres as of *Hu* Barons, and all the Commons in Parlia- <sup>1. Eliz. 1.</sup> ment do by Law swear Allegiance to Him as to the Only Su- <sup>1. Eliz. 1.</sup> preme Goverour, and to assist and defend all Jurisdictions, Pri- <sup>G. L.</sup> vileges, Prebeminences, and Authoritie<sup>s</sup>, belonging to Him, *Hu* Heires <sup>G. L.</sup> and Successours, or annexed to the Imperiall Crown of the Realme.

By the same Oath also is every Officer of considerable trust in Church and Common-wealth assured to His Majestie ; and not onely they, but every single man of twelve yeares of age ought by Law in some or other of His Majesties Leetes to swear Allegiance to His Majestie : and never in our Law have we known an Oath of obedience to be made unto the Parliament, or any other Power in any case, either of mis-government or danger, how extraordinary soever.

This Soveraigntie in the King appeares not onely by that Oath of Supremacie, but by the constant acknowledgement of our Acts of Parliament both antient and moderne, whiche alwayes stile the King *Our Soveraigne Lord the King*, that is, not Soveraigne Lord to every single man onely (as the Observer traiterously and foolishly would make it) but the universalitie of us, even to our Bodie Representative in Parliament. For we must note that though we have among us many that are called Lords even by our Acts of Parliament themselves, yet being Lords without relation to the communitie or publique they are never called *Our Lords*, but *The Lords*, with addition of such or such place or Office ; and they indeed are Lords *singulis*, not *universis*, for every particular man may call such a Lord *My Lord*, but the Communitie may not call him *Our Lord*, for to be Our Lord is to be Lord of the Communitie, and that belongeth onely to *Our Soveraigne Lord the King*.

Our very Acts of Parliament declaring this State to be a right Imperiall Kingdom, a Kingdoin (we know) consisteth of no more than two formall parts onely, that is to say, a Soveraigne Head, and a Subject Bodie ; and then it clearly followeth that what cooperation soever there be of any of the Members with the Head for the doing of any necessary Act of State, whatsoever necessarie there be of the concurrence of thole Members ; and howsoever they may seem to be Parties, Orders, or States, co-equally authorised in the power of acting with the Head, yet plainly there neither is, nor can be any co-ordination, nor co-equalitie of any Estate, Order, or Degree, of the Subject with

with the Soveraigne, nor any competition of the Subjects power (in his concurrence) with the virtuall and primary influence of the Soveraignes power; but a plain subordination and subjeeted ministratiōn of the one under the Soveraignitie of the other, as in the further examination of their differing interests will manifestly appear.

We see the Soveraignitie of this State clearly vested in the King, by Law established in Him, and inseparably annexed to His Person, by which He hath also inseparably both the Sovereign power and Soveraigne judgement: but as in judging and determining matters of private interest, His power is not absolute, but is restrained to judgement, (not judgement arbitrary in His own Person but judgement to be administered by the proper sworne Judges of His Courts of Law) so in matters of publique affaire, for so much asconcernes the making of Law; His power and judgement are so restrained to the concurrence of the Nobles, and Commons in Parliament, as that He cannot make any settled Law without their consent: but then in all other things that are not expressly restrained by any Law, as in providing for the present saterie against sudain danger, which Senates are so unapt to do, as that the famous Roman Senate was ever fain to choose a *Dictator* to do it for them; likewise in levying of Armes, suppressing of tumults and rebellions, conuoaking of Parliaments, and dissolving of them, making of Peeres, granting libertie of sending Burgesses to Parliament, treating with Forraigne States, making of War, League, and Peace, granting safe conduct and protection, indenizing, giving of Honour, rewarding, pardoning, coyning, and the like: in all these and divers other points of Regalitie, the Soveraignitie both of judgement and power ever hath been and still is in the King alone, freely and at his own discretion is secured to him by the Oath of Supremacie, whereby as aforesaid, the vvhole Representative of Commons, all Magistrates and men in place both in Church and Common-wealth sware To assist and defend all jurisdictions, privileges, prebeminentes, and authorities be-

*Lo. Chas  
Exponents  
of law  
73. b:*

*Psal. 60.7.  
Gen. 49.10  
Deut. 33.4. & 5.*  
longing to the King. For it is plain, that seeing that by the Law  
of God and Nations, to be King is to be Supreme Judge and  
Laws-giver ; vvhosoever is King is supreme in every thing  
vwherein he is not especially restrained, and his restraint being  
by the peculiar Lawes of his Kingdome, he can be no further  
restrained than the knovvn Lawes thereof expressly manifest.

The great restraint of regall absolutenesse in our State is in  
the two points of declaring and making of Law, in neither of  
vwhich doth the King depart vwith any whit of his Sovereigni-  
tie. In the point declaring of Law, the King is restrained ordi-  
narily to the mediation of his Judges, vwho to declare the Law  
by deliverie of the genuine sense and interpretation of Law  
according to art and rules of science, are in their respective  
Courts the proper and authorised Judges, and Interpreters of  
Law, and do by their interpretation and judgement then binde  
both the King and Subject.

*10. Chs.  
Egerton:  
Postnati  
fil 22.  
&  
23 sec. 4.*  
Next above them upon error supposed in their judgement,  
the House of Lords ( who anciently were exercised in the  
Lawes and learned in them, and are assisted with all or most of  
the Judges of the Benches ) do upon Writs of Error in Par-  
liament revise, and by the advice of the Judges affirme or re-  
verse the Sentence of the next inferiour Courts, where the  
judgement whither given for the King or for a common person,  
may be reversed, and as well the King as the common person  
bound by their reversal and judgement, unless they be relieved  
by expresse Act of Parliament.

Other way of Declaring Law, in true proprietie of speech  
(that is, to declare the genuine sense and dictate of the Law as  
it naturally ariseth from the force of Lawes in being) there is  
none : for as for declaring Law by Act of Parliament, though  
that of all other be most authentique, yet it is not authentique  
for accurate judgement in interpretation supposed to be in the  
two Houses there, so much as for authoritie legislative admini-  
stered by the three Orders of that high Court : for should the  
three Orders declare Law contrary to what were Law indeed,  
yet

yet could not their Declaration be erroneous, for that it thenceforth altered the Law and made their dictate Law though it were none before. Such Declaration of Law therefore being never possible to be made but by the full legislative power of all the three Orders, is not so properly a Declaring or interpreting of Law, as rather the making of it, and is therefore to be referred to the point of restraint in making of Law. And this is clear that in such declaring of Law the Kings power is so much lesse restrained than it is by declaring of Law by their inferiour Courts as that in this he himselfe hath ever a personall Vote in the Declaration, but in other he hath none at all.

As to the restraint of regall absolutenesse in point of making Law. When our wise and pious Christian Princes had once brought the Kingdom to an happy frame of just and regular Government, and sought by all meanes the establishment of that good condition, which promised both prosperitie to their people, and stabilitie to their own Dominion. (Change and Innovation being thenceforth more to be feared than any other thing) They for preservation of what they had done, began to yeild the absolutenesse of their power, without which they could never have brought the State into any perfect frame, through some retardation of motion, and regulation of power; and came by degrees not onely to use the advice of the Bishops and Barons in making of their Lawes, but their consents also; and then not onely their advice and consents, but the advice and consents of the Commons also; condescending at last that as to the power of making Law, their Scepter should thenceforth be locked up under the cautelous ward of a triple hand; so as no new A& whatsoever should obtain the Authoritie of a positive Law without the agreement of the King, the Peeres, and the Commons; to the end that no unadvised Law, not well examined and found agreeing with the interests of every of the three formall parts of this Kingdom, might in any part maine or enteble the established franie, which yet did not so much coop up or curbe the regall power from any due worke or office

office that belongeth to it, as rather close and fence it in, within the bounds of safetie and of preservation.

Now this restraint being at first collaterall and accidentall to the Soveraigne power, did not in the beginning otherwise binde our Princes than by their voluntary and pious submission of their wils, till constant custome becomming a Law made that usage which was at first at their will, become an absolute and inevitable limitation of their power, so as that at this day no positive Law can now be made by the King, without the consent of the Peeres and of the Commons: and yet for all this necessitie o. v of their concurrence and consent, nor any part of the Soveraignitie (to which the legislative power is inseperably incident) is in any sort transferred, or communicate unto them: but as in our Copy hold Estates, the Copy holder of a meer Tenant at Will, comes by custome to gain a customary inheritance, and so to limit and restrain the will and power of the Lord, as that he cannot make any determination of the Copy-holders estate otherwise than according to the custome of the Mannour: yet does not he deprive the Lord of his Lordship in the Copy hold, nor participate with him in it, neither yet devest the Fee and Frank-tenement out of the lord, but they still remain in him and are ever parcell of the Lords Demeasne. So in this restraining of the Kings legislative power to the concurrence of the Peeres and Commons: though the custome of the Kingdom hath so fixed and settled the restraint, as that now the King cannot in that point use his Soveraigne power without the concurrence of the Peeres and Commons according to the custome of the Kingdom, yet still the Soveraignitie (and with it the inseperable legislative power) does soly reside in the King. As for the Peeres and Commons they being meerly Instruments of Regulation and qualification of the Kings legislative absolutenesse, are no sharers with him in the Soveraignitie, but alwayes remain (as our very legislative A&s of Parliament do alwayes speake them) *Hū Majesties Subjects.* And His Majeſtie for all this restraining power of theirs remaines *as they themselves*

themselves in the legislative Acts, and not without an Oath, acknowledge Him their true and only Sovereigne.

Apparantly therefore the Soveraigntie or regall power being thus in matters of private interest restrained to the rule, jurisdiction, and administration of Law, as well by inferiour Courts as by the House of Lords; and in the publique affaire of making Law, restrained to the concurrence of the Peers and Commons, is not so properly said to be restrained, as regulated. For neither is any of the Kings just and necessary power to the prejudice of the Crown taken from Him (for the Law in no sort suffers any diminution of the just and due Soveraigntie) neither is there any partnership of the Supremacie thereby thrust upon the King, when the Law, notwithstanding the restraint exprely declares Him *The only Supreme Governoour*. Neither yet is any of the irregular and exorbitant absolutenesse, which the Law separates from the regalitie, any way transferred to the Courts or persons that are the instrumentals of the regulation, but the Law separating all irregular licentiousnesse from the Regalitie, utterly annihilates and makes null all practice and exercise thereof. In summe, all that is effected by this regulation is, the King as He ever was, so still remaines, wholly and soley Soveraigne of the Kingdom onely, not of a licentious and illegall, but of a regular and legitimate Dominion.

But when the power and authoritie of Parliament is acknowledged to be the highest, most absolute, and most Soveraigne power in the Kingdom, and seemes repugnant to that which we have alleadged, that the Soveraigntie is wholly and soley in the King; We shall easily reconcile that apparition of contradiction, if we consider that we use the word *Parliament* to divers senses, and that in two senses wherein we use the word *Parliament* there is no Soveraigntie to be ascribed to it.

We sometimes use the word *Parliament* for the House of Lords onely. As when upon Writs of Errour any Judgement in the Kings Bench is examined in the House of Lords, and there affirmed or reversed, the Judgement is said to be affirmed

or reversed by Parliament. And yet though in that sense, the House of Lords is well enough called The Parliament, yet is it not the high Court of Parliament, which is the supreme Judgement, power, and Authoritie of the Kingdome, and that we may easily see in this, that though the Lords have power there to reverse the Judgements of their inferiour Courts, yet have they not power to reverse their own Judgements, nor to restore again any Judgement that they have reversed; for they judging ministerially, and not soveraignely, do as well binde their own hands as the hands of their inferiours, whereas the absolute soveraigne power doth not so, but may reverse any judgement that they themselves have given, and again restore the judgement that they themselves reversed, for the absolute supreme Court having *Juris dandi dictiōnem*, can never be at the last period of her jurisdiction; but looking ever forward to the present occasion, whatsoever passed before, it *pro re natâ* legislatively judgeith, makeith, and declareth Law. But the House of Lords (though the most superiour of all Courts of ministeriall iurisdiction) and all other inferiour Courts, (they having no other iurisdiction than onely *Juris dandi dictiōnem*.) in using their iurisdiction do consummate it, and bring it to a period, beyond which they cannot go. Besides the House of Lords is not universally to all occasions a iudicatore, and therefore not soveraigne, but is the distinct Court of the Kings Barons of Parliament of particular and ministeriall iurisdiction, in which the King (though one of the three Voters in Parliament) yet in those things which come by processe of Law to receive determination there onely, hath no Vote at all, no more than in all other Courts of ministeriall iurisdiction.

Sometime we use the word Parliament for the two Houses of Parliament onely, and that in regard they are the grosse of the Bodie, whereof the Parliament consists, there wanting onely the Soveraigne Head to compleat it. But the two Houses alone without the King are so farre from being the supreme and high Court of Parliament, as that they are not at all a compleat Court,

Court, neither can they so unite or conioyne as to be an entire Court of either soveraigne or ministeriall iurisdiction. But are two distinct Courts (if so be the House of Commons which cannot minister an Oath, nor fine, nor imprison any but their own Members) may be called a Court, then are they Courts, not otherwise co-operating, than by concurrence of Votes in their severall Houses, for preparing matters in order to an Act of all the three Orders of the Parliament, which when they have done their Votes, are so farre from having any Legall Authoritie in the State, as that in Law there is no stile, nor forme of their joyn't Acts, nor doth the Law so much as take notice of them, untill they have the royall assent, which if the King refuseth, he yet doth no injurie to any, for that every of the three Orders that are the formall parts of the high Court of Parliament, (that is, the King, the Peeres, and Commons) are every of them by Law trusted for their own respective interests to be the onely assured Conservatours of the rights that do belong unto them, and may therefore every one of them freely dissent from the Votes of the other two, nor is their any danger that it should be so, but contrarily the most assured safetie that may be, for the consequence of their not agreeing can be no worse, than that their severall interests shall still remain in the condition that they were before, untill such time as that they shall all three agree upon the state of alteration. Now when the two Houses alone do no way make an entire Bodie, House, or Court, and when their is no known stile, nor forme of any Law, or Edict by the Votes of them two onely, nor any notice of them taken by the Law, it is apparant there is no Soveraignitie in their two Votes alone.

To argue now as some do, that the King must not deny His Vote, for it by denying it He may frustrate the Votes of the two Houses, by the same reason may He frustrate the Votes of all interiour Courts, and open a way to the most boundlesse tyrannic that ever was, is a most perverse and absurde falsitie; there being no affinitie nor resemblance of the course of those

Courts with that of Parliament. For in inferiour Courts the Judges sit and give Judgement for the King, and not for themselves; and the Law there authoriseth them to give the Kings Judgement, and none but them, and therefore the Kings Dissent or Countermand cannot frustrate their Judgements. But in Parliament the Peeres and Commons neither sit nor Vote for the King, but for themselves. And the Law appoints the King himselfe to give His own Vote there (which if the Peeres and Commons in His absence could have supplied, the Statute 33. H. 8. 21. needed not have provided that His Consent or Vote by His Letters under His Great Seale should be as effectuall, as if He himselfe in Person had assented.) Besides the Judgement given by the Judges in inferiour Courts, is compleat in Law without the assent of the King, and therefore cannot be frustrate by the Kings dissent; but the Votes of the two Houses are therefore to be frustrated for want of the Kings assent, because without it they are not compleat nor perfect. The high Court of Parliament therefore resembling a Chaire of three feet, the two Houses make but two of the three, which without the third is lame and uselesse (as to making of Law) but with the third becomes a firme and usefull seate, and makes that sacred *Tripos* from whence the Civil Oracles of our Law are delivered. When therefore we speake of the Soveraigne power and Authoritie of the Parliament, that never is to be understood of the power of the two Houses onely, nor any such Soveraigne power to be ascribed unto them.

Now in the last place, we use the word Parliament for the three Orders of Parliament agreeing in their Votes; then, and then onely use we the word Parliament properly, and in that sense onely is the Parliament the supreme Court, the highest judicarorie, and most soveraigne power, and authoritie in the Kingdom. But we must ever understand, that it is not the most Soveraigne Court, for any Soveraigntie placed in the two Houses, and from them transferred or communicated to His Majestie, by their joyning or consenting with him; but it is there-

therefore the most soveraigne Court, because every compleat  
 and perfect Act of it is the Act of the personall will, and power  
 of the Soveraigne himselfe, *Standing in His biggest Estate Royall,*  
 and ( through the concurrence of those that are the instrumen-  
 tals of His restraint) more freely and absolutely working there,  
 than in any other time and place he can do. For as a man that  
 yeildeth himselfe to be bound by keepers, hath the use of his  
 strength taken from him, but none of the natural strength it  
 selfe, much lesse any of it transferred to them that bound him,  
 but whensoeuer they loole his bonds, he again workes and acts  
 by virtue of his own naturall strength, and not by any received  
 from them : So the naturall right and interest of the Sov-  
 raigntie being soly in the King, and the Peeres and Commons  
 being onely interessed in the Office of restraining, for the regu-  
 lar working of true legitimate Soveraigntie, in whatsoever the  
 Peeres and Commons by consenting reinite the restraint, the  
 King in that willetteth and worketh absolutely by the power of  
 his own inherent Soveraigntie. And whatsoever Act of the  
 Court so passeth the hands of all the three Orders, does in  
 truth virtually proceed from the King, as from the true and  
 proper efficient thereof : which does not obscurely nor rarely  
 appear in our Acts of Parliament, but plainly and frequently  
 throughout the whole Bodie of our ancient Lawes, *The King  
 Willeth, the King Commandeth, the King Ordaineth, Provideth,  
 Establisheth, Granteth, &c.* And yet though properly they be  
 the Acts of the King in Parliament; yet are they also truly the  
 Acts of the whole high Court of Parliament, because that every  
 of the three Estates contribute their power according to the  
 diversitie of their office and interest, the two Houses by re-  
 mitting through the consenting the restraint, and the King by  
 using his then unrestrained power.

We are also to consider, that though this high Court of the  
 three Orders be the i supreme Judicatorie of the Kingdome, yet  
 it hath not that superioritie of judgement ascribed to it, for any  
 soveraigne facultie it hath in discerning the true dictate and re-  
 sult

*Cromp. Iur. 10 b.*  
 The speech  
 of H. 8. in  
 Parl. by in-  
 formation  
 of the  
 Judges.

*Stat. H. 8.*  
 1, 3, E. 1.  
 1, 3, E. 1, 3.  
 & 6, &  
 42 Stat.  
 of Mercha-  
 13, E. 1.  
*W. 8.* p.  
 18, E. 1, 1.  
*Stat. of*  
*W. 8.* p.  
 E. 1, of  
 Appeals,  
 1, 3, E. 1.  
 1, E. 2, 1,  
 and all the  
 Rules of  
 the Acts  
 of our Par-  
 liament.

Takelijques  
en ses artes  
of Divinitie, Philosophie, Physicke, Mathematiques, &c.) for  
credendum, the judgement of Sciences belongeth to the professors thereof,  
21. H. 7. 9.  
34. H. 8. 14. and the judgement of Law as well as of other Sciences. But  
the high Court of Parliament is the supreme judge, for the  
great trust the Law reporteth in the concurrence of all the three  
Orders, ( who have meanes to have the best information of  
Law that the whole profession doth afford, and are supposed  
to use it) and likewise for the great power they have to binde all  
other judgement, and to make their sentence Law, though (as  
we have said) it were not Law before.

But we are further to observe that in the point of making of  
Law, the Law restraining thus the Soveraigne power to the  
consent of the Peeres and Commoners, the more that by this re-  
gulation it purged it from destructive exorbitances, the more  
tender it grew of the just and legitimate rights thereof remain-  
ing, and therefore considering the person of the Soveraigne to  
be single, and his power counterpoised by the oppoſed wiſe-  
dome of the two numerous Bodies of the two Houses, it al-  
lowed unto the King power to sweare unto himſelfe a Bodie of

25. E. 3. 4. Councell of State ( which our Lawes sometime call *His Grand  
37. E. 3. 13. Council*) and to sweare unto him also Counſellours at Law, even  
42. E. 3. 3. 27. R. 3. the Judges themſelves, and others learned in the Law, faith-  
fully to advise him in his Government, that he may neither do  
Ruler the Oath of the Justi-  
ces, an. 18. E. 3. Yee wrong may be perpetuall. And if upon a generall pretence of  
shall swear &c. that evill counſell, without any instance in what, his Majestie be de-  
lawfully ye- prived of the use and assistance of and assistance of any of his  
ſhall coun- sworne Counſell ( especially in Parliament time, when the  
ſell the King in Soveraigntie may be ſo easily overmarched) it will make ſuch  
his busi- a breach of the privileged of the firſt of the three Orders in  
neſte, and Parliament, as will destroy the true frame of Parliaments, di-  
ye ſhall not mi-  
counſell nor abſent to any thing which may turne him in damage, &c. and ye ſhall do and procure  
the profit of the King, and of his Crown, with all things, where ye may reasonably do the fame,  
and if ye be found in default, &c. ye ſhall be at the Kings will. of bodie, goods, and lands, there-  
of to do as shall please him. So helpe, &c. Vnde the Statute de Big. m.

with the power of the Crown, and bring the settled estate of the Kingdome into the calamitous innovation of an unsettled and ever changing Forme of Government, and so into all manner of miserie and confusion.

The Soveraigntie in the King alone, is so clearly acknowledged by our Law, as that (unlesse we would reiect the iudgement and recognition of all our Parliament, and especially of all our most sincere and unquestioned Parliaments all the time of Queen Elizabeth, and ever since, all which do not onely affirme but (weare it) it would be idle to go about to make praise of it. But when the incredible perversenesse of some, and in particular of him that writes, *The treacherie and disloyalitie of Papists, &c.* does not onely affirme the contrary, but would pretend to prove it. It cannot be a digression in a word or two to give some answer to his reasonings.

I shall passe over *Minsheu's Dictionarye, Speed, Stowe, Vorwell, Foxe*, and others, whose authoritie he is not ashamed to cite for determining matter in Law, and which (it indeed it were a question) were of the greatest consequence that ever was stirred in Law. And because he so much insists upon *Bracton*, I shall briefly examine *Bracton*, and the Authours integritie in citing him and others.

And first, that all men may know how little authoritie in Law <sup>1. v,</sup> *Bracton* either now hath, or anciently hath had. Our yeare-booke tell us that in the 35. H.6. It was declared by the whole Court, that *Bracton was never held an Authour in our Law, and* <sup>35. H.6.</sup> <sup>Rule. Atr.</sup> then it is not materiall what is the opinion of one that is of no <sup>111. gard.</sup> *authoritie.* But if he were; yet those words in *Bracton* so much insisted on, *Rex habet supersorem Deum, Legem, item Curiam suam, &c.* are not indeed *Bractons assertion.* For *Bracton* speaking of the Kings Deeds and Charters, and affirming (which we would be loath should be Law at this day) that *Neither the Justices nor private men may dispute the Kings Deed, but that if there be doubts of his Deed, or Charter, the resolution must come from the Kings own interpretation and will, &c.* Then goes <sup>72. pag. 3</sup> <sup>Bract. li. 1.</sup> <sup>c. 16. par. 3</sup> <sup>fol. 34.</sup> he

he on thus; But some may say (saith he) that the King may do justice, and well: and if so, he may by the same reason do ill, and so put a necessarie upon him, that he mend the injurie, least both King and Justices fall into the judgement of the living God for the injurie. The King hath a Superior, to wit, God: also the Law, by which he is made King: also His Courts, to wit, the Earles and Barons, &c. Now whosoever considers the place, it is all a reasoning which Bracton supposes some other to make, and no affirmation of his own, and that is also plain by his words in another place, where  
 B. 43. l. 1.  
 C. 8. p. 5. speaking of the King, If Justice (saith he) be demanded of him, seeing no Writ lies against him, one must petition, that he would correct and amend what he had done. Which if he do not, it is sufficient for his punishment, that he must expect God to be the Avenger of it. Not a word of the Courts avenging or rectifying of the iniurie, or of their enforcing the King to do it himselfe. Again, speaking of Earles, though with little iudgement he would seem to derive their Office from the Etymologie of the Latine name *Comes* (which was but a late borrowed translation brought in use by the Conquerour) and would so make them a kinde of Companions with the King; yet does he not make them Companions thrust upon the King by Law, but the Kings (saith he) do associate such to themselves for advice and government. Every one truly is under him, and he under none but God, and he hath no Peer in his Kingdom, for then he should loose the Command, when as one Peer hath no command over another, much lesse hath any one command over his superior, for so he should be inferiour to his own Subjects: and the King ought not to be under man, but under God, and the Law: now these words of Bracton tell us that the other are neither his assertion nor approbation.

And whereas by those words of Bracton, that The King ought to be under the Law, he would interre a direct Soveraigntie over the King, he very much corrupts the meaning of Bracton, for it is one thing to be subiect to Law, and to the administration of Law, and another thing to be a Subiect to those that have the administration of Law as to his Soveraignes. Our Saviour Christ

Christ was subject to the Law, and to the administration of the Law in the hands of them that were the Ministers of it: yet was not Christ the Subject of those Ministers, nor they his Soveraignes, but contrary he theirs, he being Borne King of the Iewes. And Bracton's reason that the King must be under the Law is, because he is Christ's Vicar on earth. And Christ himselfe was under the Law; so as plainly Bracion meaneas not the King, otherwiile under the Law, then as our Saviour Christ was, who did subject himselfe to the just execution of the positive Lawes of the Kingdom, of which he himselfe was the Head and Fountain, not that he should be subject to the administration of any arbitrary Law, residing in the people, who should in the last resorte be Soveraignes over their own King: for that was not suitable to one that should be Vicar of Christ, but to a Vicar of the people. Neither is the King more subject to any judgemente that can be given in Parliament, than He is to judgements given in inferiour Courts, to which if you will say the Parliament is superiour to those Courts, and the superioritie that is but subordinately in them is soveraignely in the Parliament; truly the superioritie (if it may so be call'd) that is subordinately in the inferiour Courts, is but more superiourly in the House of Lords than them, but it is not soveraignely neither in the Lords House, nor any other part of Parliament, till we come to the judgement of all the three Estates, (where the Kings will is the efficient formall of the Law) and there you may see that the Vicar of Christ the King, like Christ His Lord, whom He representeth; in being subject to the Law, of which He is Soveraigne, becomes at last subject to none but Himselfe: for that high Court of Parliament speaketh not without Him.

But ere we give over his citation of Bracton, we must not forget his unfaithfull application of it. For as for those words, *The King hath a superior* (that is to say) *God, also the Law, also His Court, to wit, the Earles and Barons.* He would not onely have them Bracton's words, and have them understood to carry Sovereignitie over the King, but would have that Sovereignitie placed

placed in the two Houses, when as *Braction* expressly expounds that the Court which he meanes is the Earles and Barons, that is to say, the House of Lords onely, and not the Commons too; plainly shewing that he meanes no other superioritie than such as is incident to the regular course of Justice in the way of legall suit and processe, which in that course never goes further than the House of Lords: there is no forme of prosecution in that kinde in the two Houses, and therefore neither Sovereignitie nor Superioritie in that kinde can be ascribed to them.

P<sub>a</sub>g. 38.

Neither may we passe over his falsehood and shuffling to extenuate the Oath of Supremacie, that securitie may make men swallow their perjurie and never know it: for though it be true, that the Oath was principally intended against Papacie, (because the Papacie was the first that ever pretended Sovereignitie over Kings) and the clause of renouncing runnes against Forraigne powers onely, as those that then were onely feared to be pretenders under the Papacie; yet the recognition it selfe, that *The King is the onely Supreme Governour*. And the Oath it selfe, to beare faith and true Allegiance to the King, His Heires, and Successours, and to assist and defend all jurisdictions, privileged, preheminences, and authoritie belonging to them, &c. are clearly generall, absolute, and unrestrained to any particularitie of Papacie, Forraigners, or any thing else whatsoever.

But to come to that that is the maine Authoritie, scope, and drift of his book, and which he would by all meanes inculcate though but under the shew of telling what popish Parliaments have done, lest otherwise his horrible intention might appear, he brings us precedents that the two Houses of Parliament have upon all occasion soveraignely disposed of the Crown, and of all the rights that do belouge unto it, and that even our Kings themselves have submitted their soveraigne rights to the determination of the two Houses. Good God! How Evill men and Seducers wax worse and worse, deceiving, and being deceived. He that writ the Observations upon His Majesties Answers and Expresses had so much ingenuitie left him as to acknowledge, that

2 Tim.  
3.13.

that There was never King depos'd by any Parliament lawfully assembled; and that the Acts of the Parliament, R.2. were not so properly the Acts of the two Houses as of H.4. and His victorious Armie. But this man being not ashamed to lickle up what his fellow vomited out, presents the world with a cull of all the irregular times of our unfortunate Princes, in which (by the consent of all men) the Acts of neither side are to be drawn into example, and bring us for judicall Authorities, the horrid <sup>Ed.1.</sup> facts of irregular power, in the Times of King John, R.2. H.4. <sup>Pag. 8. 10</sup> H.6. &c. And is so supine in his purpose, that with the factious Parliaments in the Times of H.3. E.2. and R.2. (which he cites to have exercised authoritie over Kings) he stickes not to couple the Rebellions in the North, against H.4. and the rebellious Insurrections of *Lacke Cade*, *Lacke Straw*, *Wat Tyler*, *Douleur Mackereell*, *Ket*, and others, as Acts that made e quall prooef of the soveraigne power of the Peeres and Commons: indeed in both there were much what the same pretences, and both had much what the same warrant.

But all those Parliaments as they were called in the troublous Times of Faction, and Civill War, so were they ever swayed by those that were the Heads of the most potent Faction, and while they alwayes acted in favour of them and their Designe, they are so farre from being instances of the power, and authoritie of the two Houses, as that cleane contrary, they are plain instances of the weaknessse and unsteadinessse of them; when forsaking the moderation and guidance of their naturall Head, they suffered themselves to be lead by the private conduct of every popular pretender; and so even among the precedents which he citeth, we see that when *Cassius* prevailed by his Armes, he could have a Parliament resolve that his Tide was the best. When *Hen.4.* had an Armie of 60000. he could have a Parliament depose *R.2.* and conferre the Crown upon himselfe. When *Edw. Duke of Yorke* grew potent, he could have a Parliament be the instrument of determining the Raigne of *H.6.* and leave him onely the name of King for his life,

but give the Duke the very Kingdom, under the names of ~~Pro-  
tector and Regent, Edw. 4.~~ could by Parliament procure ~~H. 4.  
H. 5. & H. 6.~~ to be declared Kings in fact, but not in right: ~~H. 5.~~  
~~though an Usurper,~~ could procure a Parliament to declare him  
a lawfull King. *Henry 7.* could procure the forementioned Acts  
in favour of *Edw. 4.* & *R. 3.* to be adnulled. *Hen. 8.* could have  
a Parliament authorise his Divorces. And Queen *Elizab.* could  
by Parliament make it High Treason to say, that the Queen  
~~Laws, sun-~~ could not by Act of Parliament binde and dispose the rights and  
~~own, own~~ Titles which any person whatsoever might have to the Crown;  
~~Laws.~~ when yet we know that no Act of Parliament, no not an Attaid-  
~~er by Parliament, can disable the iight Heire to the Crown, be-  
cause the descent of the Crown, upon Him purges all disabili-  
ties whosoever, and makes Him capable of it~~

*Adjudged*  
4.7.  
Fig. 4.

This is the summe and true estimate of all the Authorities  
which he cites, in which if the Acts could be granted to be the  
meer Acts of the two Houses; yet did they no more prove the  
soveraigne power to be in the two Houses, than the Popes de-  
posing of Kings proves the right of depositing them to be in  
him, that the things were done, is no prooфе that they were  
lawfully done: and yet as idle and vile a collection of exam-  
ples (not to be imitated) as he hath made, he is fain to belie  
them to makem seem to serve his turne; for truly though he  
affirmes that the popish Parliaments, &c challenged, or claimed,  
greater jurisdiction over Kings, than any ever since, yet his in-  
stances prove no more claime of Soveraignitie than a robber  
claimes when he exercises an arbitrary power over a mans per-  
son and fortunes: what they did they did *de facto*, upon some  
inferior reasons, not upon claime of the Soveraignitie; they  
neither taught, nor ever learn'd that Jesuitique *depths of Satan*,  
that the Soveraignitie over the Soveraigne is placed in the Bo-  
die Representative of the Subject. All claime therefore of ei-  
ther the Soveraignitie it selte, or of the rights thereof by any  
Representative of the Subject, is a transcendent impietie be-  
yond the parallel of all his unimitable examples, in which I  
cannot

cannot but the more wonder that he should ascribe the Acts unto the two Houses, when by making the Acts theirs, he makes all the long miserie and bloodshed that ensued upon those Acts to have been brought upon the Land by the meer Act of the two Houses. Considering therefore the every way faulty Argument of that Book, both in citing and applying, I am forced to conclude with the same words that in the frontispice of his Book he begins with *The treacherous dealers have dealt treacherously; yea, the treacherous dealers have dealt exceeding treacherously.*

As for the second part of the same Author that came since forth under a title that pretends to shew the Lawfulness of a defensive war; that answers it selfe, that it comes nothing to the case in question, where the War is acknowledged to be an Invasive War to take from His Majestie certain Counsellours, pretended to be evil Counsellours. If possibly therefore he should prove what he undertakes to maintain that Subjects may make a Defensive War against their Soveraigne, yet being nothing to our case deserves at all no answer here, I therefore returne again unto my purpose.

That the Soveraigntie (with all the rights claimed by His Majestie) is in the King inseparably inherent in the person of His Majestie, we have no: onely the forementioned testimonies and reasons, but we have the witnessse of the two Houses themselves, for whom our deceiving Pamphlets do now make all the new arguments of pretence. For first, we have (as I have said) the whole current and bodie of our very Acts of Parliament acknowledging it in these very termes, *Our Soveraigne Lord the King.* We have the Parliament 25. H.8. declaring thus, *Thy Your Graces Realme recognizing no Superior under God* 25. H.8. *but Your Grace.* The Parliament 16. R.2.5. affirming *The Crown* 16. R.2.5. *of England hath been so free at all times, that it hath been in no earthly subjectson, but immediately to God, in all things touching the regalitie of the said Crown, and to none other.* In the 25. H.8. both Houses declare *That it belongeth to the Kings regalitie to grant or denie what petitions in Parliament he pleaseth.* In the 15. E.3. The King being unwillingly drawn to consent to certain Articles prejudiciale

*Co. 5. de  
juge & Esc.  
fol. 9. b.*

to the Crown, and to promise to seal the Statute thereupon made, least otherwise his affaires in hand might have been ruined. Another Statute the same year reciting the matter en-

<sup>15.E.3.</sup> enacted in these words, *It seemed to the said Earles, Barons, and o-*  
<sup>A.2. of R.</sup> *therwise men, that since the Statute did not of Our free will proceed, the*  
~~Statute~~ *same be void, and ought not to have the name nor strength of a Sta-*  
*tute, and therefore by their counsele and assent We have decreed the*  
*said Statute to be void, &c.* In the Statute of Banishment of H.  
Vide Olde  
Moy. C. 6.  
Desr. H. 4.  
 Spencer, the first Article against him, is for making a Bill, wherein he affirmed *Homage and allegiance to the King is more by reason of*  
*their own, than of the person of the King.* The word hath a note  
 of a Parliament roll Dariie of H. 4. The Commons in Parlia-  
 ment pray the King that *They may not be made parties to any judge-*  
*ment in Parliament, but where in reuertitate they are parties, for that*  
*the judgement belongs only to the King, except where it is given by*  
*Statute.* As for the *Militia, the Shippes and Forts of the*  
*Kingdom.* The King and His Predecessours have not onely  
 been ever in possession of them, commanded and disposed of  
 them even during the sitting of Parliaments, but have enjoyed  
 that possession without any claime of right made by the two  
 Houses, and our Law hath not a surer badge of right than con-  
 tinuall and unquestioned possession. Besides, the Parliament it  
 selfe,

<sup>7.E.1.</sup> declares unto the King, that *To him of right belongs*  
~~straightly to defend~~ *(that is, to forbid) all force of Armes, and there-*

<sup>3.E.3.</sup> *unto they are bound to assist him as their Soveraigne Lord.* The Sta-

<sup>1re queux  
et non pas</sup> *Allegeance is bound to serve assist his Prince and Soveraigne Lord at*  
~~cognizance~~ *all seasons when need shall require, &c.* In the 3. of Edw. 3. The

<sup>25.E.3. 2.</sup> House of Commons disclaime the having cognizance of such  
 matters, as the guarding of the Seas and Marches of the King-  
 dom. And by the Statute 25.E.3. 2. It is made High Treason  
 for any to meddle with the *Militia, so farre as To levie Warre*  
*against the King, or to aide them that do it.* And we all know that  
 to levie Warre without Commission from the King, or to give  
 aide unto it, is by our Law to levie War, and give aide ~~against our~~  
<sup>Sore.</sup>

*Soveraigne Lord the King, Hu Crown and Dignitie.* And we never knew of any exception out of that Law in case the Werre were levied by Authoritie of the two Houses? And when we have not in our power to search the Parliament rolls for clearing these things. If (besides our published Statutes) our Law-bookes have any authoritie, we have not onely *Bracton* (whom they insist upon) but other authentique Law-bookes concurring with him who all speaking of the King and the Houses do expressly say, that leeing *The King hath no Peere*, *The King cannot be iudged by them*. So that whatsoever authoritie is in the constant practice of the Kingdom, and whatsoever authoritie in the known and published Lawes and Statutes, all do conclude the Soveraignitie in the person of the King, and the allegiance, faith, obedience of the Subject even of the Subject virtually united in the Bodie Representative, to be inevitably devinck and obliged to the person of the King.

The Soveraignitie both of the frame of the State and positive Lawes of the Kingdome being fixed in the person of the King, and the Allegiance of the Subject by Law inevitably thither assigned, then comes in Religion, and fortifies, and enforces all those bonds of dutie and obedience, and that under the severe menace of damnation, which when it is in divers precepts and examples (well known unto us) abundantly set forth in the Scriptures. It will not be safe for us to let slip the consideration of two examples especially.

The Children of *Israel* being redeemed out of *Egypt*, baptized in the Red Sea, and brought for triall into the wildernesse as they were the type of the Church of God in all Kingdomes whatsoever in this world: so *Moses* their Governour was the type of that regal power under which the Church of God in this world was generally to be governed: so as though he were not a King in point of interest, (for the people were not yet in the Countrey that was to be the Kingdom, neither was *Moses* of the Tribe to whom the Kingdom was promised) yet (faith the Text) *He was King when the heads of the people were assembled*. *Dens.* *Moses* 33.5.

Moses so personating the kingly Office, when as yet there was  
 no expreſte command concerning obedience and ſubjection,  
 more than Honour by father and by mother, and he that curſeth fa-  
 ther or mother let him die the death. It happened that Corah, Da-  
 than, and Abiram rebelled againſt him, and their rebellion was  
 but this : they in the behalfe of the Congregation of the Lord,  
 because that it was holy every one of them, and the Lord among them,  
 question Moses his Sovereigntie, charge him and Aaron that  
 they exalted themſelves above the Congregation of the Lord,  
 and that Moses had not kept touch with them to bring them to a  
 Land that flowed with milke and honey, but ſought to starve  
 them in the wildernesſe, while blinding the eyes of the people  
 he might in the mean time make himſelfe a Prince over them,  
 and out of jealousy of this they refuſed obedience to Moses, and  
 would not come at him when he ſent to call them, and ſo much  
 was their cause believed to be just and right : as that they were  
 ſeconded with two hundred and fifty Princes of the Asſembly famous  
 in the Congregation : all of them ſo confident, that they durſt  
 joyne iſſue with Moses, and put themſelves upon triall by Gods  
 immediate judgement in the caſe, and they were also backed  
 with many thousands of the people. This was the Rebellion:  
 the Judgement we all know to be moſt exemplar judgement that  
 ever was given in any caſe. The Heads of the Rebellion Corah,  
 Dathan, and Abiram, with their wifes, their children, and all their  
 ſubſtance, were swallowed up of the earth, they went down  
 quicke into Hell (ſaith the Pſalmiſt.) The two hundred and fifty  
 that invaded the holy Office were ſlain with fire from Heaven,  
 and fourteen thouſand and ſeven hundred of the people (that  
 favoured their attempts and murmured at the Judgement) were  
 in an instant (in leſſe than Aaron could get his Censer with fire  
 from the Altar and run among them) conſumed in a ſpedy  
 plague.

It will be objected that Moses was a man of extraordinary  
 calling, and that Rebellion againſt an ordinary Governor  
 (though a ſovereigne King) is not like Rebellion againſt a Go-  
 vernour

Numb.  
16.3.

Ex.13.

Ex.17.

Pſol. 106.  
17.

vernour of so extraordinary calling and priviledge ; all that  
granted, yet this exemplar Judgement comes home to manifest  
the hainous sin of rebelling against Kings at this day.

Moses had an extraordinary calling, he could not else have been  
a type of regal Authoritie, but in type *He n as King when the heads*  
*of the people were assembled.* He had the Priest made subordinate *Dent. 33. 51*  
to him, *He shall be unto thee instead of a mouth, and thou shalt be unto*  
*him instead of God.* And had the Magistracie, derived from his  
Authoritie, to beare the burthen with him, *God took off the spirit* *Numb.*  
*that was upon him, and put it upon the severall two Elders.* So Moses *Exo. 4. 16.*  
*11. 15.* was clearly endued with regall power ; and for transgression a-  
gainst that very Authoritie of his was the Judgement made so  
exemplar. It could not be exemplar in regard of any other Au-  
thoritie which he had then, and no other since either had or  
could have : but that we may know the Judgement was exemplar  
against Rebellion, against regall Dominion, which would often  
be committed in the later dayes, the holy Ghost speaking against  
the seducers & deceivers *wch in the later dayes should make perilous*  
*simes, describes them not onely by being Cursed speakers, disobe-* *2 Tim. 3:*  
*dient to parents ; (that is, as well to Civil parents as Natural) traite-* *2. & 4.*  
*rous, headie, high-minded, resisting the truth : like them that resisted* *2 Pet. 2. 10.*  
*Moses ; Despising Dominion, despising Government, speaking evill of* *Jude 8.*  
*Dignities, of those that are in Authoritie, of those things whicb they* *10. & 11.*  
*know not, &c. but by this likewise that They perish in the gainsaying*  
*of Coran.* The other example is that of David. Saul was a wi-  
ked apostate King, from whom *The Spirit of God (the inward an-* *1 Sam.*  
*ointing) was departed. Saul reected from raigning over Israel.* So by *16. 14.*  
God himselfe declared. David in his stead by God provided to be  
King : and to that end by Gods command anointed ; by all  
which David's priviledge then was more above the priviledge  
of all Subjects now, than Saul's priviledge of that time was  
above the priviledge of Kings at this day ; and yet David for  
all those circumstances so much authorising him, and dis-autho-  
rising Saul, did not know Who could lay his hands upon the Lords, *1 Sam.*  
*Anointed and be guiltlesse.* Nay, he did but lay his hand upon *26. 9.*

Afterward ~~Saul's~~<sup>David was</sup> garment to cut off the lap for a testimonie of his loyal-tie, and innocent intention toward ~~Saul~~, and yet even for that heart be-cause he had cut off the lap of ~~Saul's~~ garment. (saith the Text) his heart smote him; that he cried out, *The Lord forbid I should do that thing to my Master, so lay mine hand upon the Lord's Anointed*: his reason we may know in the other words of his, *The Lord shall smite him, or his day shall come to die, or he shall descend into battaille, and perish: the Lord keep me from laying mine hand upon him*: plainly inferring, that to call Princes to account belongs onely to God: that God hath time and wayes of his own to do it in, and will do it: and that therefore man must not meddle with the doing of it: for if anointed ~~David~~ might not intermeddle with rejected ~~Saul~~, much lessle may common Subjects meddle with their unrejected Sovereaignes. Sufficiently therefore do these examples shew the heinousnesse of Subjects lifting up themselves, and resisting the person of their Sovereigne, upon what pretence soever.

Now while the severitie of these examples, and other passages of Scripture, iustly striking terror into every soule, does make us wonder what great straight of humane affaires could be so violent an impulsive with us, as to make Christian Subjects contrary to sworne Faith, to Law, and to Religion, not onely disobey their Sovereigne, but resist, invade the sovereign rights, and employ their Sovereaignes *Militia, Shippes, Forts, Armes, Treasure*, yea and his own sworne Subjects too against Him; truly all that the most searching thought can finde to secure his conscience with, against the horrour of so foule a guilt, is, that otherwise we feare (or pretend to feare) that His Maiestie, seduced by evill Counsellours, by popishly affected Prelates, Courtiers, and Cavaliers, should destroy our Law, our Parliaments, our established Forme of Government, and change them into tyrannie, and the true Protestant Religion into Poperie. This, this Feare or pretence of Fear alone is all the warrant we can finde for our unparalleled proceedings against our Sovereigne. And if this before the Tribunall of God, and of our own Lawes be not sufficient for our excuse, then have we

nothing to discharge us of the guilt of publique violence, robberie, murder, periurie, treason, resistance of the Ordinance of God, and of forcing others against their consciences by aet or aid to resist with us. Now all these evils are universally committed all over the Kingdome, and all these evils upon no other warrant done, than that the good of Reformation ( as is pretended) may come thereon. So make we the Word of God of none effect, while we entertain and preferre the Jesuitique tradition before it, and maintain that what is for the good of the Church must bedone, notwithstanding any bonds of dutie, of Faith, or Oath whatsoever to the contrary.

And if we examine the grounds of this Feare, and what iust suspition and probabilitie of such an innovation, as is pretended to be feared, is given. We see for our assurance to the contrary, that His Maiestie (after once He was truly informed of our grievances) condescended not onely to give us ease of them, but to make His Acts of Grace in them at once exceed the Acts of all His Predecessours since the granting of our *Magna Charta*; and did not onely in present relieve our sufferings, but (often invoking the Sacred Maiestie of God, as a severe Witnesse of His purpose for the time to come) tie Himselue for ever to settle matters of Religion according to the purest times of the Protestant Church of *England* (with such ease for tender Consciences, as by a lawiull iudgement of the Clergie should be iudged fit) and to governe according to the known Lawes of the Land. Here is little signe of one led by evill counsaile, or of a minde that would subdue Law & Religion to the satisfaction of His private will. This shewes our Fear to be both groundles and wicked; and indeed, after this if iealousie it selfe could yet make scruple of any thing, how easie were it for the wisdome of the Bodie Representative, by preparing a Law of severitie against the instruments of innovation, exposing their persons and fortunes to certain ruine, nullifying the innovations themselves, and discharging the Subject from all obedience and conformitie unto them, to have secured the Kingdom against all manner of fear

in that kinde, when as His Majestic freely offers His Gracious assent to any Act that shoulde in that behalfe be necessary.

But (if what cause, what ground, what reason of dutie soever we finde, though constantly and universally received for true, both by the judgement of our Law, and by the authoritie of our Religion, we must notwithstanding reject all to believe the all-concluding judgement of the Bodie Representative, whom we never knew to have such Supremacie of judgement, till it selfe bearing witnesse of it selfe did tell us so) it cannot yet but make much to the satisfaction of the conscience, to examine how well the two Houses, now sitting, do attain the condition of a full and free Assemblie of the two Houles of Parliament, that pretend to have such judgement.

And first it is known that the House of Commons now sitting, however elected, was never yet perfected by a right determination of Elections, but that some set as Members there that ought not to have been returned, and some are not received that yet were rightly chosen, some are excluded for having hands in Monopolies, and projects; and others (as much interessed in them) for their assured affection reteined: the greatest part of both Houses, by meanes of popular menacings, tumults, poasting up of names, branding men with the name of Malignants, (things never known before in Parliaments) and again undeserved expellings from the House, or imprisonings, have been so overawed, that they have been forced to suppress their Votes, to give them contrary to their iudgements, to hide themselves, or to flie from the Houses; the residue of both Houses, (and among them the Knights and Burgesses which the Countries sent to reside in Parliament, that there the whole Representative advising together, might with the more safetie Vote and consent for us) they make over their Countries trust to a few Committees of their own, and wholly betake themselves to marciall Offices and imployments, exercising in them a new found arbitrary power over those that sent them. And then the remainder of the Peeres and Commons (which are scarce

scarce a fourth part of them) call themselves the Parliament, and all the known rights of Sovereignitie does this Epitome of Parliament assume unto themselves and exercise ; yea, the House of Commons alone (notwithstanding their Protestation to God for the Defence of the Lawes and Libertie of the Subject) by warrant under their Speakers hand, beyond all Law and example, imprison Subjects, that were never Members of their House, and deny them their *Habeas Corpus*. And not onely invade the Libertie of the Commons, but presse upon the House of Lords, the voting of things which in a full House they had before, upon ~~nature~~ advice, orderly rejected. They seconded a tumultuous Petition that demanded the names of the Lords that had dissented from the Commons House, though the dissenters were the *major* part of the House of Lords. This Epitome of Parliament hath taught that which never Parliament knew before, That their Members may not without the Order of their House be restrained, no nor for Treason. And, professing tender care of the Kings Honour and safetie, hath authorised Bookes, wherein His Sovereignitie is made subject to the Representative of His Subjects, and wherein the deposing of our English Kings by their Subjects is declared warrantable ; and upon the authoritie and warrant of this Parliament must the poor Christian Subject that is under their power (against his Conscience) act and give aide to the Armie, which against the Kings expresse Command and Proclamations they have levied ; when though conscious horrour and shame will not suffer it to be acknowledged to be raised against the King, yet are their Souldiers sure they shall meet with no other opposite than with their rightfull Sovereigne, and His Followers arming for the safetie of His Person, for defence of the iust rights of the Crown, for the due Priviledges of the first of the three Orders of Parliament, and for the necessary power wherewith He is to protect Religion, Lawes, and Subjects of His Kingdom. Who that makes conscience of what he does, as one that must make account for it before the

The Book  
of Offe-  
vations,  
Treachery  
and deloy-  
alise of  
Subjects,  
&c.

great Tribunal (where a little integritie (though now despised) and a little innocence of cause shall bring one more support than either King on the one side, or Parliament on the other, or Armie on either side) who (I say) thereof mindfull, can against the thousand witnessses of his conscience, recede from the dutie which all his life, till now, hath both by Law and Christian Religion been inculcate to him, and reiecting all, cast himselfe soule, bodie, and fortunes, wholly upon the new-found warrant of strangely conditioned apparition of Parliament.

These, and other particulars that may be instanced in, take off the confidence and repose that one would otherwise have in the two Houses, especially when they (setting on foot claimes and pretences, not agreeing with the dutie that men from their youth have found their consciences ever bound unto) go not the faire and open way of satisfaction, to have in so high concernments the Parliament Rolls as freely and fully searched on the Kings behalfe, as on the Parliaments, and to have their new and strange learning, as freely argued by the Kings Councell, and by the Judges, as by the instruments of the Parliament: but as the Papacie, in invading the Soveraigntie of the Church, Voted her selfe into the Supremacie, and then suppressed all examination of the Truth by damning all Writings to the contrary, and branding the Authours and users of them with the name of Heretickes: So we invading the Soveraigntie of our own State, Vote our selves into it, brand with the name of Malignants, all that concurre not with us in it, interdict them the freedome of search and discoverie of the Truth, and damne their Writings as scandalous and seditious Pamphlets; and so making them Vote-convicted State Heretickes, We thenceforth hold no Faith nor Truth to be kept toward them, but prosecute them as Enemies to the State, for no other offence but because we have made them Malignants, popishly affected, dissolute, desperate, blood-sucking Cavaliers and plunderers.

Yet truly, if we consider the qualitie of them that adhere unto His Majestie and to His Cause do now lie under that censure

sure, we shall finde them the flower and greater part of our Nobilitie and Gente of the Kingdome, the greater part of His Majesties Honourable Privie Counsell, yea and of His Great Councell too, even of the Peeres and Commons, the chiefe of the Judges, and with them the opinion of the residue even of that whole Profession, the spirits and prayers of the farre greatest part of the Clergie, and the hearts of the greater part of the most substantiall men of the Commonaltie, whose soule and conscience, presented with the consideration of these things, would not shrinke with inward horrour to thinke he should either attempt or give aide to the cutting off (not like *David*, of a lap of his Soveraignes ordinary garment) but of this lively apparrell-politique of his Soveraigne, wherewith for safetie, as well as ornament, His Majestic is now begirt, nay, to cut off the very limbes of his Civill bodie, and not without eminent danger to His Sacred Person, how loud and frightfull would the spirit of *David* crie in the eares of his guilty conscience, *The Lord forbid I should do this thing to lift up my hand against the Lords Anointed.*

O, but Religion is now at stake, and it is not to be believed that popishly affected Counsellours and Commanders with the helpe of a popish Armie should so much forsake their own ends as to fight for Establishment of the true Protestant Religion : truly it is sincerely confessed, it is not likely, and therefore I shall never believe that the Designe of Reforming our Religion by the hands of Brownists, Anabaptists, and Sectaries, (which by a constant and credible report, is believed to have been so much fostered and advanced by the Cardinall *Richebelles* and the late French Embassadour, as that Chambers the Cardinals Secretarie was on purpose sent into the Scotch Armie here in *England*) was ever with intent of Establishing the true Protestant Religion, or that for the Protestant Religions sake, the death of the Cardinall was by some of our active Parliament men (in our hearing) lamented as of a great friend of the Parliament, or that the great correspondence and intercourse observed

served to be between the late French Embassadour and Master Pym, was for the advancement of the Protestant Religion. But where is any popish Armie, under the conduct of popish Commanders, that, according to the Designe of popish Counselours, is likely to oppresse the Protestants, and advance Poperie? Certainly, both his Maestie, and his Protestant Followers are well assured, that not any part of the Warre is managed by the Designe of persons that are so affected; but who knowes not the ground of calumnie? The King must either denie his Subjects that are Papists the protection of his Armie, and refuse their aide and service, or else their aide and service must make his Armie a popish Armie: surely, not to admit them into his Armie, when they cannot otherwise be safe, were uniuistly to deny them the protection of Subjects, and to spare them (either in their personall or pecuniarie assistance) were with inequality toward his Protestant Subjects, and with danger to their Cause, to refuse his needfull duties from the Papists: though therfore Protestants should never lay down their jealousy of the growth of Poperie, yet should they not let it so abuse them, as to make them believe they have no danger to feare but onely Poperie; especially now when Schisme and Sedarisme do with such authoritie invade us, and when nothing can more advance the bringing in of Poperie, if it be possible, than the confusion in Church and State that does inevitably follow them (the expectance whereof was the cause that made the Cardinall and the popish partie from beyond sea so effectually labour the promoting of them.) Undoubtedly, if Poperie be at this time to be feared, it is to be feared from the prevailing of Schismatiques by the Designe and manage of so potent and active forraigne Instruments of Poperie; and it would retorne with comfortable satisfaction to our consciences, that having for a feigned feare of Poperie engag'd our selves in reall Rebellion, we should finde our paines rewarded with the felicitie of becomming instruments of the evill that at so deare a rate we did unnecessarily resist.

When in every thing considerable to resolution, the conscience is on every hand so strongly beset with reasons, all concluding for obedience to our Soveraigne, and for our utmost assistance to His Cause. How weak is the sole Authoritie of ~~an~~ imperfect representative of Peeres and Commons, so to possesse the conscience with perswasion to the contrary, as upon it to venture the present and eternall safetie of ones selfe, and of so many thousands in our Israel.

But say that this world were onely to be considered in the busynesse, let us yet but see what must needs be the event, in case the Parliament Forces (which God forbid) should prevale; either they must leave the Soveraignitie in the King as it was before, and content themselves with strict Lawes against all grievances that may be feared in Religion or in Government: (and then they bring no more to passe then what His Majestie, before their Warre, did of himselfe, and does yet gratiouly offer) or else they must take the soveraigne power from the King into their own hands, and leave him no more (at most) than the contemptible name of King, then shall we loose our old legall Government, and be governed by the absolute arbitrary and tyrannicall way of their Votes, and they, to secure themselves in that new and uncouth way of Government that they must institute, must (to the overthrow of Trade, and intolerable burthen of the Subject) keep the Kingdome under perpetuall Garrisons; and then what with the Faction and discord of our ambitious New-States, what with the unrulinesse of the commanding Souldier, and what with the attempts of those whose fidelitie will ever excite their utmost endeavour for their Soveraignes never dying right, we shall fall into ~~an~~ incessant Civill Warre, (untill the Kingdome being ruined) the Soveraignitie returne into the hand to which it rightfully belongeth.

Unless therefore it please God, that our great Metropolis of London (partaking rather of the wise spirit of the men of Abel, than <sup>2 Sam.</sup> of the obstinacie of Gibeath the Benjamite) shall either deale so

effectually with those that there reside in shew of Parliament,  
as that they bring them to yield to the equalitie of a free and  
legall Parliament, and so provide against future grievances,  
without any violation of the Rights of the Crown : or else, (in  
case they refuse) shall like the *Abelites*, deliver unto the King  
Judges<sup>20</sup> the Heads of those Opposites that rise up against Him. We  
may assure our selves that that Citie like those of *Gibeah* and  
*Benjamin*, are hardened to all our *Israels* punishment, and to  
their own destruction, and may (as they did) prevale once,  
and again, against the residue of the Kingdome, untill they have  
fulfilled Gods determined Visitation upon the Land, and then  
consummate all with their deplorable destruction.

---

*FINIS.*

---



# A DISCOVERIE OF LONDONS OBSTINACIE, AND MISERIE.



Here hath been many Admonitions sent from His Majestie, advising that Citie of their own preservation, yet they have continued stubborn, though they cannot but see the hand of the Lord to assist all the King's Majesties proceedings, whereas their actions are so farre from prosperitie that they winde themselves wilfully, and force others ignorantly, into miserable adversitie.

Furthermore, though God hath manifestly fought against the Rebels for the King, giving Him Victorie in many Battailles, when all humane helps and advantages were on the Rebels side, though God hath miraculously, and beyond the hope of man restored unto Him the hearts of the people, (which the Heads of this Rebellion by slander had stolne from Him:) though from small and contemptible beginnings in the eyes of

His Enemies (few or none standing for Him, but God and the Justice of His Cause) God hath prospered him into many mighty Armies, which render Him formidable to the proudest, and stourest of the Rebels; though every Victory hath been seconded by a tender of Peace, and with an overture of Pacification, so that as Himselfe speaks in that Declaration published Inty 30 1643. *He could not probably fall under the scandalous imputation which hath usually attended His Messages of Peace, that they proceed from the weaknesse of His Power, not love of His People.* Lastly, though like an indulgent Father of rebellious Children, He hath courted this Crie, and woeed it, by many pardons, many, and often repeated Acts of Grace and Favour to recall us to our former Loyaltie, (if ever we were Loyall) yet, inconsiderate, unthankfull wretches as we are, we over-look, or slight all these invitations, for instead of returning, we have added this, as the complement of our other Rebellions, that (whether more unthankfully or undutifully, I cannot tel) we have cast dirt in our Soveraignes face, and slandered the footsteps of Gods Anointed; as if He were guiltie of all those Miseries, which at this time threaten the subversion of this Nation: we will no longer wound the King secretly, through the sides of his evill Counsellors, or Cavaliers, but charge Him directly, and point blanke, as in that most seditious Declaration, or whatever you will call it, presented by Sir David Warkiss, and that brokea Citizen, ouer at elbowes, called *Sassen Shire*, to the Common-Councell, and by them to the remainder of the Lower House; if it be not breach of Priviledge to call it so.

*How willing have we obeyed every Commandment, except God and the Kings? How forward have we been to employ the large Revenues of our severall Companies, and Brotherhoods, (as heretofore to excesse, and gluttonie, so now) to support this Rebellion? How ready, even beyond our abilities, have we been to submit to every Taxe, and illegall Imposition, even to the bondage & slaverie of Excise, by which we are not so much Proprietaries of our own, as Stewards, or Coffeers to the heads*

of the Rebellion ; and all this, to no other end but to keep up the Rebellion : we have not onely protected, and supported the Kings mortall Enemies, but as much as in us lay, have persecuted all His Friends, or, if but suspected to stand well affected to Him, and the Justice of His Cause, not sparing the effusion of innocent blood, as that of Master Tomkins, and Master Chaloner, which, like the blood of *Abel*, calls loud to Heaven for vengeance, on this bloody Citie, and questionlesse will in time be heard, for not content to buy these mens bloods with great summes of monies, which could not be advanced but on this condition, that Master Tomkins, and Master Chaloner, be delivered up to their pleasure, and murthered for a strange Conspira-cie called *Obedience to the King*, but being dead, in an unheard of barbarousnesse they presse into the houses, where their dead bodies lay, before their Funerals, and thinking they could never be sure enough of so great a guilt, they will not believe that they are dead, unlesse they force the houses to see the bodies of them whom themselves had murthered ; insomuch, that to avoid further violence and rage of the Citizens, they were fain to set open the doores where their bodies lay, and expose them to the view of all, that so they might glut themselves with beholding that sad spectacle which themselves had made.

That the Kings Gracious offers of Peace have been slighted, and rejected, with scorne, and contempt, and His Messengers that brought them (contrary to the Law of Armes and Nations) imprisoned ; That those miserable distractions, which have rent and torne this flourishing Kingdome, are so farre from being closed, that they are rather made wider ; That the Sword of War, so long devouring, is not yet sheathed, except in one anothers bowels ; That this Kingdome is still made the Scene of Murthers, Rapines, Oppression, and Plunderings, and whereon all the horrid acts of rage, and injustice are every day acted, and the Nation put almost out of hope, ever to enjoy her former Peace and Plentie, is our fault, and ours wholly : Had not the ~~cause~~ of this Rebellion been animated by this Citie, and

encouraged by promises of more Supplies of Men and Monies, they had long before this laid down their Armes, and come with halters about their neckes, and cast themselves at the Kings feet, submissively begging those Pardons, which they have presumptuously rejected : Time was, when the two Houses gave a Law to the Cittie, now it is come to that passe, that the Cittie prescribe to the *Rigours* of the two Houses ; They must not conclude of War or Peace, without consulting the Cittie, if they doe, they reckon without their Host.

Nay, though Fairfax be utterly routed in the North, and Wallon, once surnamed a Conquerour, be totally defeated in the West, yet can they neither be perswaded, nor beaten into thoughts of Peace. On the 20<sup>th</sup> of July last, no longer ago, many Thousands (as the printed paper tells you) preferred a Petition to the House of Commons, presented by M. Norbury, of the Cursitors Office, and John Hst an Attorney of Guild-hall, both pernicious men, which as it evidently shewes their obstinate aversion from Peace, so it is the most desperate devilish slander, that ever yet durst look the world in the face, for first, they tell the House of Commons, and in them the world, *That the King withdraws any tenu of conscience, and in defiance of God, hath raised an Armie of Papists, Onclawes, and Traitors, for Robbing, Burning, Murthering, and Destroying of His Religious, honest, and well meaning People.* And then knowing not onely their interest in, but their power over the House of Commons, they do not so much *Petition*, as *Command* them to accept of their assistance, for the raising a new Armie, and in expresse termes prescribe unto them, and limit them to a *Committee* of their own *nomination*, for the seizing and receiving of such summes, as the willing shall thinke fit to offer, or they shall thinke fit to extort from the unwilling for this service : and that you may judge of the whole bunch, by some, they name Pennington the pretended Lord Maior, Stroud one of the five Members, Harry Martin Plunder-master Generall, and Denis Bond Burgesse of Dorchester, and Parrioch Whites own disciple, a man of a double capacite to be a Rebell, and

and finding themselves more alone in these undertakings than they did imagine, like desperate Traitors, they call on the whole Kingdome, as one man, according to the intent of the late Covenant, to joyne with them in this Rebellion. And having thus taken a course to raise new Forces, on Saturday the 29<sup>th</sup> of July, at a Common Hall, they Voted Sir William Waller, Generall of their new intended Armie, whom to indeare the more, they interest him in the Government of the Citie, hoping that being as mad as his Ladie, he will hold up the Rebellion, as long as he can, and then be one of the last to run away; I mean not from Battaille, for in that he hath shewed himselfe as forward as the foremost, but from Justice, and the due reward of his disloyal-tie. By all which it is most evident, that this *Langusbing Rebellion* had before this day gasp'd its last and given up the ghost, had not this *rebellious Citie* by its meane and multitudes fomented it, and given it life.

If therefore Posterite shall aske, who broke down the bounds to those streames of blood, that have stained this earth, if they aske, who make Libertie captive, Truth criminall, Rapine just, Tyrannie and Oppression lawfull, who blanched Rebellion with the specious pretence of Defence of Lawes and Liberties: War with the desire of an established Peace, Sacrilege and prophanation, with the shew of Zeale and Reformation. Lastly, if they aske who would have pulled the Crown from the Kings head, taken the Government off the hindges, dissolved Monarchie, enslaved the Lawes, and ruined their Countrey, say, 'Twas the Proud, Unibankfull, Schismatical, Rebellious, Bloody Citie of London; so that what they wanted of devouring this Kingdom by cheating and couzening, they mean to finish by the Sword.

That therefore these dangerous *Defluxions*, and continuall (not small *Dissillations*) but *Floods* of Men, Money, Ammunition, and Armes, descending from the Head Citie, and Metropolis of this Kingdome, may not for ever dissolve the nerves, and  
luxare

Laxate the Sinewes of this admirable composed Government; it will highly concerne this Nation to look about them, to undeceive themselves, and to consult their own Peace and safetie, by joyning with their Gracious Soveraigne, in chastizing these rebellious insolencies, and reducing this stubbornre Cittie of London either to obedience or ashes.

---

*FINIS.*

---











